IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 8774 of 2007(T)

AGAINST THE ORDER IN E.A.1065/04 IN E.P.237/04 IN OS.136/1996 of II ADDL. DISTRICT COURT, TRIVANDRUM
.....

PETITIONER:

PETTAH PUTHEN KOVIL BHAGAVATHY TEMPLE,
REPRESENTED BY ITS SECRETARY,TEMPLE COMMITTEE,
PETTA,THRIUVANANTHAPURAM.

BY ADV. SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA
SRI.R.S.MADHU
SMT.SHIRMILA. C.S.
SRI.MAHESH ANANDAKUTTAN

RESPONDENTS:

VIDHYADHARAN,RTD A.E,P.W.D,'VIDYA',
VANCHIYOOR,THIRUVANANTHAPURAM.

BY ADV. SRI.N.R.SURESH KUMAR
SRI.P.RAMESAN (KANIAPURAM)
SRI.M.C.MADHAVAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/07/2007, THE COURT ON 02/07/2007 DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF THE COMMON JUDGMENT IN O.S.1401/95 & O.S.136/96 PRL. SUB CURT, THIRUVANANTHAPURAM.**

EXT.P2 **TRUE COPY OF THE E.P.237/04 IN O.S.136/96 2ND ADDL. DIST. COURT. THIRUVANANTHAPURAM.**

EXT.P3 **TRUE COPY OF THE ORDER IN E.A.1065/04 IN E.P.237/04 BEFORE THE 2ND ADDITIONAL DIST. COURT, THIRUVANANTHAPURAM.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 8774 OF 2007

= = = = = = = = = = = = = = =

Dated this the 2nd day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to quash Ext.P3 order passed in E.A.1065/04 in E.P.237/04 in O.S.136/96. O.S.136/96 and O.S.1401/95 were disposed of by a common judgment whereby O.S.1401/95 was dismissed and thereafter a direction was given to defendants 1,3,4 and 5 to act strictly in accordance with the provisions of Ext.A1 scheme and Exts.B1 and B3 in respect of temple and its properties unless the scheme is modified with the permission of the District Court. So accordingly a decree was also drafted. As things stand today there is a direction given by a Court to defendants 1, 3 4 and 5 to act strictly in accordance with the scheme and Exts.B1 and B3. Now, the compliant alleged in the execution petition is non-compliance of the directions in the scheme. So, one cannot find fault with the persons for approaching the executing Court for the reason there is a mandate cast upon the defendants 1, 3, 4 and 5 to do the act in a particular way. Whether they are doing the act in a particular way or whether being an act in derogation of the directions all are

matters that has to be considered by the Court after hearing the parties and if necessary after adducing evidence. One cannot hold that the persons cannot approach the executing Court to implement the directions of the Court. Therefore, the argument that the execution petition itself is not maintainable cannot be entertained. Whether the particular points they allege are acceptable is a matter that can be only considered after the parties adduce evidence in support of their respective contentions. I make it very clear that the respondents in the execution petition shall be given full opportunity to put forth their contentions and also regarding the defences they want to point out and the matter be disposed of in accordance with law.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-